Supreme Court, U. S.
FILED
OCT 28 1976
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1976

No. 76-331

THE NORTH CAROLINA UTILITIES COMMISSION, SOUTHEASTERN ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, et al.,

Petitioners,

vs.

THE FEDERAL COMMUNICATIONS COMMISSION and THE UNITED STATES OF AMERICA, et al.,

Respondents,

On Petition for A Writ of Certiorari To The United States Court of Appeals for the Fourth Circuit

BRIEF OF AMICUS CURIAE STATE OF NEBRASKA ex rel. NEBRASKA PUBLIC SERVICE COMMISSION IN SUPPORT OF PETITIONS FOR WRIT OF CERTIORARI

PAUL L. DOUGLAS, Attorney General
C. C. SHELDON, Assistant Attorney General
2119 State Capitol Building
Lincoln, Nebraska 68509
Attorneys for Amicus Curiae
State of Nebraska ex rel.
Nebraska Public Service Commission

GANT PUBLISHING COMPANY, 1610 N Street, Lincoln, Nebraska 68508

IN THE

Supreme Court of the United States

October Term, 1976

No. ———

THE NORTH CAROLINA UTILITIES COMMISSION, SOUTHEASTERN ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS, et al.,

Petitioners,

vs.

THE FEDERAL COMMUNICATIONS COMMISSION and THE UNITED STATES OF AMERICA, et al.,

Respondents,

On Petition for A Writ of Certiorari To The United States Court of Appeals for the Fourth Circuit

---

BRIEF OF AMICUS CURIAE STATE OF NEBRASKA ex rel. NEBRASKA PUBLIC SERVICE COMMISSION IN SUPPORT OF PETITIONS FOR WRIT OF CERTIORARI

THE STATE OF NEBRASKA'S INTEREST

Nebraska has a population of approximately one and one-half million people. Virtually all of these people receive telephone service from one of the forty-eight regulated telecommunications common carriers operating in Nebraska.

The Nebraska Public Service Commission is the constitutionally created body charged with the intrastate regulation of rates, services and the general control of the telephone companies in Nebraska. The purpose of this Commission is to protect and serve the people so that their telephone service is the most advanced and most economical while at the same time providing an adequate rate of return to the telephone companies.

The interest of the State of Nebraska in this proceeding, therefore, is to protect and maintain the rightful function of its Public Service Commission against the declared purpose of the Federal Communications Commission to usurp the state's jurisdiction over telephone terminal equipment and facilities.

ARGUMENT

In the early part of 1974 the Federal Communications Commission declared that it had preempted the state regulation of interconnection of customer provided terminal equipment to local telephone exchanges and intrastate switched telephone networks. In deciding whether to grant a writ of certiorari it is important that this Court recognize the far reaching implications and effect of that action.

The effect of the F.C.C.'s action on the people of Nebraska is both immediate and substantial. The Nebraska Public Service Commission will no longer be able to regulate the provision of and rates for terminal equipment according to local demand and need. More importantly, however, the F.C.C. will be able to (and apparently intends to) open the terminal equipment field to competition. If it is true that terminal equipment subsidizes the residential

telephone, then the potential loss of revenue from terminal equipment will result in an increase in the monthly residential telephone rate. In addition, the possibility exists that the cost of long lines that are supplied by American Telephone and Telegraph will increase to the small independent telephone company. The obvious end result is that the people of Nebraska will experience an increase in rates for their monthly telephone service.

It is apparent that any decision of this Court will have a direct and immediate effect on virtually all telephone subscribers in the State of Nebraska and therefore it is important that the issues presented by this case be reviewed by the United States Supreme Court.

CONCLUSION

For these reasons, a writ of certiorari should be issued to review the judgement and opinion of the United States Court of Appeals for the Fourth Circuit.

Respectfully submitted,

PAUL L. DOUGLAS
Attorney General
C. C. SHELDON
Assistant Attorney General
2119 State Capitol Building
Lincoln, Nebraska 68509
Attorneys for Amicus Curiae
State of Nebraska ex rel.
Nebraska Public Service Commission